

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF JOHN M. ALBI) APPEAL NO. 06-A-2487
from the decision of the Board of Equalization of) FINAL DECISION AND
Bonner County for the tax year 2006.) ORDER

RESIDENTIAL PROPERTY APPEAL

NOTICE OF APPEAL was filed September 5, 2006, by Appellant. The appeal followed a timely protest to the Bonner County Board of Equalization (BOE) regarding the valuation for taxing purposes of property described as Parcel No. RPE0138001008TA. On appeal, John Albi represented himself and Assessor Jerry Clemons represented Bonner County. In order to timely advance the appeal, the Board of Tax Appeals (Board) ordered this appeal be heard on the written record of evidence and argument presented. The Board subsequently requested that all information and evidence to be considered be submitted by both parties. The Board now issues its decision based upon the documentary record.

The issue on appeal is market value of an improved residential property.

The decision of the Bonner Board of Equalization is reversed.

FINDINGS OF FACT

The Assessor valued the subject land at \$347,200 and the improvements at \$171,872, totaling \$519,072. On the Appeal Form filed September 9, 2006, Appellant noted the assessed land value of subject was \$356,922, and the improvements' value was \$141,541, totaling \$498,463. Appellant requests the land value be reduced to \$141,000, and the improvements' value be reduced to \$129,000, totaling \$270,000.

The subject property includes a two bedroom, two bath, 1,440 square foot residence with a two-car attached garage located on .97 acres east of Hope, Idaho.

On November 15, 2005, a 1/2 interest in subject was purchased from Mr. Albi's sister-in-

law. The total value of the property at that time was \$270,000 of which Appellant paid \$135,000 plus part of the closing costs. A fee appraisal, dated July 1, 2005, estimated value of subject at \$200,000. A local Realtor furnished a CMA (Comparable Market Analysis) dated July 7, 2005 with an estimated market value of \$251,966. Another fee appraisal, date of October 9, 2006 estimated value of subject at \$300,000. (See table below.)

Two 2004 sales and one March 2005 sale were considered in the 2005 fee appraisal. The 2006 fee appraisal included one sale from November, 2005, one from January, 2006, and one from March, 2006.

Appellant's various valuations follow:

Source	Price/Value	Date
Appellants' purchase	\$135,000 ($\frac{1}{2}$) X 2 = \$270,000	November 2005
Appraisal	\$200,000	July 2005
Realtor CMA	\$251,966	July 2005
Appraisal	\$300,000	October 2006

According to Appellant, subject is being assessed as a view lot when growth of neighboring trees blocks most of the view.

Respondent questioned whether the sale of the $\frac{1}{2}$ interest in subject was an arm's-length transaction. Sales between family members are usually not considered arm's-length transactions and are not usually included in assessment ratio studies.

The County Assessor made the following adjustments to subject's assessed value. The residence was changed from a Class 4, Market Grade 3 to a Class 3, Market Grade 3. The increase in value attributable to view was removed. The result of Respondent's adjustments follow.

	Original Value for 2006	Proposed Value for 2006
Land	\$347,200	\$291,600
House	<u>171,827</u>	<u>108,302</u>
Total	519,072	399,902

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following conclusions.

The Assessor has a statutory requirement to value property at market value:

63-314. COUNTY VALUATION PROGRAM TO BE CARRIED ON BY ASSESSOR. (1) It shall be the duty of the county assessor of each county in the state to conduct and carry out a continuing program of valuation of all taxable properties under his jurisdiction pursuant to such rules as the state tax commission may prescribe, to the end that all parcels of property under the assessor's jurisdiction are assessed at current market value. In order to promote uniform assessment of property in the state of Idaho, taxable property shall be appraised or indexed annually to reflect current market value.

Market value is defined in Idaho Code § 63-201(10) as follows:

“Market value” means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

Generally sales between related parties, and partial interest sales, do not conform to the above definition. In subject's case, the fee appraisal and the realtor's CMA are both estimates of value lower than the purchase price of subject. According to the 2006 fee appraisal, the estimated value of subject 10 months after the current assessment date was only \$30,000 more

than the purchase price. The 2006 appraisal tends to establish a value ceiling and the 2005 appraisal and realtor's report appear to establish the floor for subject's value. The Board finds Appellant has supported by a preponderance of the evidence the relief claim. Therefore the decision of the Kootenai County Board of Equalization will be reversed.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Kootenai County Board of Equalization concerning the subject parcel be, and the same hereby is, reversed reducing the total assessed value of subject to \$270,000.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

DATED this 27th day of April 2007.